

**IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13 CV 227**

R.L., as lawful guardian *ad litem* of)
Minor Child A.L.,)
)
Plaintiff)
)
v)
)
BURKE COUNTY PUBLIC SCHOOLS)
BOARD OF EDUCATION, KATHY AMOS,))
DAVID BURLESON, JOHN ROES 1-10)
and MICHAEL ANDREW ALEXANDER,)
)
Defendants.)

ORDER

THIS MATTER is before the Court pursuant to a Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#18) filed in the above entitled matter. LCvR 16.1(A) provides as follows:

LCvR 16.1 PRETRIAL CONFERENCES

(A) *Initial Attorney’s Conference.* As soon as is practicable, and in any event not later than fourteen (14) days from joinder of the issues (as defined in Section (D) below), the parties or their counsel shall confer as provided by Fed. R. Civ. P. 26(f), and conduct an “Initial Attorney’s Conference” (“IAC”). In addition, counsel shall also discuss at such conference consent to magistrate judge jurisdiction.

The term “joinder of the issues” are defined further in LCvR 16.1(D):

(D) *Joinder of the Issues.* For the limited purpose of these Local Civil Rules, “joinder of the issues” occurs when the final answer to a

complaint, third-party complaint, or crossclaim or the final reply to counterclaim has been filed, or the time for doing so has expired.

An examination of the file in this matter does not show that service has been obtained by the Plaintiff upon Defendant Michael Andrew Alexander and there has not been an answer filed on behalf of Mr. Alexander. Thus, the issues in this matter have not joined and as a result, the undersigned will deny the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#18) without prejudice. The Court points out to Plaintiff's counsel that this Order is a mirror image of the Order (#15) that was entered in this matter denying the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#14) filed on October 16, 2013. The Court urges counsel for Plaintiff to read the Orders of the Court.

ORDER

IT IS, THEREFORE, ORDERED that in considering the Certification and Report of F.R.C.P. 26(f) Conference and Discovery Plan (#18) as a motion, the undersigned will **DENY** the motion and will not enter a Pretrial Order and Case Management Plan until service has been made upon all Defendants and joinder of issues has occurred.

Signed: December 2, 2013

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